



HB 4074: JUVENILE SEX OFFENDER REGISTRATION SUMMARY OF CHANGES EFFECTIVE APRIL 4, 2016

HB 2320 (2015) established that youth found under the juvenile court's jurisdiction for a felony sex crime (if committed by an adult) on or after August 12, 2015, have the right to a hearing to determine if reporting as a sex offender will be required. HB 4074 made adjustments to the rules that apply to youth who were adjudicated prior to August 12, 2015, as well as a number of procedural fixes.

1. Requirements for youth found under juvenile court jurisdiction prior to 8/12/15.

Under HB 4074, there are three different categories of rules that apply to youth who were found under the court's jurisdiction prior to August 12, 2015. An overview is provided in the following table, with more detailed explanations provided below.

Reporting Requirements for Youth Found Under Juvenile Court Jurisdiction Prior to 8/12/15 for a Felony Sex Crime	
Juvenile court or Psychiatric Security Review Board (PSRB) jurisdiction was terminated <u>before August 12, 2015</u> .	<u>Required to report</u> unless relief granted under ORS 163A.130. ORS 163A.025(1)(b).
Juvenile court or PSRB jurisdiction was terminated <u>after August 12, 2015, and before April 4, 2016</u> .	<u>Required to report</u> . ORS 163A.025(1)(c). Entitled to notice of right to hearing and provisional appointment of attorney. Section 3 procedures apply.
The youth was still under juvenile court or PSRB jurisdiction on April 4, 2016.	<u>Only required to report if ordered</u> . ORS 163A.025(1)(a); ORS 163A.030(1)(a)(B).

Jurisdiction ended prior to August 12, 2015. Through a drafting error in HB 2320, youth adjudicated prior to August 12, 2015, did not have a legal obligation to report for the period of August 12, 2015, through April 4, 2016. The bill amends ORS 163A.025 (1)(b) to reinstitute the requirement that youth report if they were under the court's jurisdiction for a felony sex crime and juvenile court or Psychiatric Security Review Board jurisdiction was terminated prior to August 12, 2015.

Youth under juvenile court or PSRB jurisdiction on April 4, 2016. ORS 163A.030(1)(a)(B) expands the right to a hearing on the issue of reporting to youth adjudicated prior to August 12, 2015, and who remain under juvenile court or PSRB jurisdiction on April 4, 2016. The entity providing supervision – the juvenile department, Oregon Youth Authority, or the Psychiatric Security Review Board – is responsible for providing notice to the court when the entity has determined termination of jurisdiction is likely to occur within six months. ORS 163A.030(2)(a). When the PSRB discharges a person prior to this time, the board is required to notify the court within three days after discharge. ORS 163A.030(2)(b).

Youth who had jurisdiction terminated between August 12, 2015, and April 4, 2016.

Finally, for youth who were adjudicated prior to August 12, 2015, who remained under juvenile court or PSRB jurisdiction on August 12, 2015, and for whom jurisdiction was terminated prior to April 4, 2016, special requirements apply under temporary provisions (until July 1, 2018) established in Section 3:

- The supervising entity (juvenile department, OYA, or PSRB) is required to provide written notice to the youth within 90 days of April 4, 2016, of the right to a hearing.
- A copy of the notice identifying the youth is to be provided to the juvenile court.
- Upon receipt of the notice, the court is required to appoint an attorney for the limited purpose of assisting the youth to decide whether to file, and to file, a request for a hearing.
- If a youth files a written request for a hearing, the court shall:
 - appoint an attorney in accordance with ORS 163A.030(4);
 - set a hearing date within six months of receiving the request;
 - notify the parties and the juvenile department or PSRB (if either was providing supervision) of the hearing.
- The court shall hold a hearing, unless waived by the youth after consulting with his or her attorney, following the procedures outlined in Section 3 of the bill. At the conclusion of the hearing, the court is required to enter an order either requiring the youth to report, or ordering that the youth is not required to report. (Youth are legally obligated to report pending the court's determination under ORS 163A.025(1)(c).)
 - If the court orders youth to report, the court is required to ensure the youth fills out a [Court Notice of Juvenile Sex Offender Registration Obligation](#) form and send it to Oregon State Police within three business days of the youth's completion of the form. The court is also required to send a certified copy of the order if it is entered after the youth has waived his or her right to a hearing.
 - If the court orders the youth is not required to report, the court is required to send a certified copy of the order to the Oregon State Police.

2. **Procedural Fixes.**

Several procedural changes were included in the bill:

- **Court notice**. The entity supervising the youth (PSRB, juvenile department, or OYA) is required to provide the juvenile court notice when it determines that termination of jurisdiction is likely to occur within six months. ORS 163A.030(2)(a). If the PSRB discharges the youth prior to the anticipated termination of jurisdiction, the board is to notify the juvenile court within three business days after the discharge date. ORS 163A.030(2)(b).
- **Requirements after notice received**. The court is required to appoint an attorney for the youth, set an initial hearing date, and notify the parties (and the juvenile department or PSRB, if applicable) of the hearing at least 60 days before the hearing date. Parties are defined as the person/youth, the state as represented by the district attorney or the juvenile department, and the Oregon Youth Authority or other child care agency, if the person is temporarily committed to the authority or agency. ORS 163A.030(13).
- **Hearing date**. The court is required to hold a hearing on the issue of whether reporting will be required during the six-month period before termination of jurisdiction. An exception has been added for PSRB cases, allowing the court to hold the hearing within six months of receiving notice from the board. In addition, a good cause provision has been added allowing the court to hold the hearing outside of the six month limit. ORS 163A.030(1)(b). Finally, clarification has been added that the juvenile court retains jurisdiction to hold the hearing even after jurisdiction was transferred to PSRB under ORS 419C.529 and/or after the youth turns age 25. ORS 163A.030(13).
- **Waiver**. A youth may waive the right to a hearing after consultation with an attorney. If the court finds that the person knowingly waived the right to a hearing, the court shall enter an order requiring the person to report as a sex offender. ORS 163A.030(6)(a).
- **Failure to appear**. If the youth fails to appear at the hearing, the court may enter an order requiring the person to report as a sex offender. ORS 163A.030(6)(b).
- **Evaluation and treatment records**. The supervising entity (juvenile department, OYA or PSRB) is required to file the youth's sex offender evaluation and treatment records in the possession of the entity with the court 45 days prior to the hearing unless good cause is shown. ORS 163A.030(10)(a).